

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)	
)	
2006 Quadrennial Regulatory Review – Review of the)	MB Docket No. 06-121
Commission’s Broadcast Ownership Rules and)	
Other Rules Adopted Pursuant to Section 202 of)	
The Telecommunications Act of 1996)	
)	
2002 Biennial Regulatory Review – Review of the)	MB Docket No. 02-277
Commission’s Broadcast Ownership Rules and)	
Other Rules Adopted Pursuant to Section 202 of the)	
Telecommunications Act of 1996)	
)	
Cross-Ownership of Broadcast Stations and)	MM Docket No. 01-235
Newspapers)	
)	
Rules and Policies Concerning Multiple)	MM Docket No. 01-317
Ownership of Radio Broadcast Stations)	
In Local markets)	
)	
Definition of Radio Markets)	MM Docket No. 00-244

Comments of the United States Conference of Catholic Bishops

The United States Conference of Catholic Bishops ("USCCB") submits the following reply comments in the above-referenced Further Notice of Proposed Rulemaking, released July 24, 2006.

The USCCB is a nonprofit corporation organized under the laws of the District of Columbia. All active Catholic Bishops in the United States are members of the USCCB.

USCCB advocates and promotes the pastoral teachings of the Bishops in such diverse areas as education, health care, social welfare, immigration, civil rights, family life and communications. USCCB has extensive experience producing, funding and placing quality programming for television, radio and cable outlets. USCCB is committed to maintaining a place for religion and values on the public airwaves and to programming that inspires, informs and educates. Protection of the public's rights to disseminate and receive information from diverse sources on the scarce public resource of the airwaves is at issue in this rulemaking and is a matter of particular concern to the USCCB.

The USCCB urges the Commission, as it did in 2003, not only to retain current ownership limits, but to promulgate regulations to define digital television broadcasters' public interest obligations. Ownership of local broadcast stations by increasingly fewer companies over the past decades has ill served the needs and interests of the communities whose radio and television stations were licensed to serve, particularly their religious needs. This situation would be worsened if the already generous ownership regulations were loosened while there are no enforceable regulations defining how broadcast licensees must meet their statutory public interest obligations.¹

In 2003, the USCCB urged the Commission to refrain from loosening already lenient ownership rules, and instead focus its efforts on crafting long-overdue regulations to define how broadcasters must meet their statutory obligation to serve their communities. Today, more than three years later and still no progress on those regulations, the USCCB repeats that request, and its reasoning.

Before making fundamental changes in the structure of the broadcasting industry which cannot be undone, the Commission should examine broadcasters' conduct compared to long held principles of public interest obligations. Broadcasters' service to the segments of the community with religious needs and interests has been a part of the Commission's definition of broadcasters' public service obligations for more than sixty years.

In its 1941 Supplemental Report on Chain Broadcasting, the FCC confirmed that it intended that broadcasters devote an adequate amount of time to meet the needs of the community in issues of local interest. *NBC v. United States*, 319 U.S. 190 (1943). The FCC clarified a broadcast licensee's public interest obligation by issuing programming

¹ The Commission has not completed the proceedings which would result in regulations defining the public interest and requiring broadcasters to inform the public about how they served their community's needs and interests six years after it released its Notice of Inquiry (*In the Matter of Public Interest Obligations of TV Broadcasters and Licensees*, MM Docket No. 99-360) and Notice of Proposed Rulemaking (*Standardized and Enhanced Disclosure Requirements for Television Broadcast License Public Interest Obligations*, MM Docket No. 00-168).

guidelines, which listed religious programs as one of the “major elements usually necessary to meet the public interest, needs and desires of the community in which the station is located.” *1960 Programming Statement*, 20 R.R. 1901, 1913 (1960). In 1971, the FCC further assisted licensees in meeting their fundamental obligation to serve local needs and interests by developing methodologies to determine those needs and interests, one of which was to interview community leaders. *Primer on Ascertainment of Community Problems*, 21 R.R.2d 1507 (1971). Among these community leaders, the FCC specifically mentioned religious leaders, although the licensee was expected to determine which community groups and needs are significant and merit responsive programming. *Id.* at 1518.

The FCC’s deregulatory actions of the early 1980’s were not intended to alter broadcasters’ obligations to meet community needs with responsive programming, but only change the manner that obligation was enforced. *In the Matter of Deregulation of Radio*, 49 R.R.2d 1, 7 (1981), affirmed in part, *Office of Communication of United Church of Christ v. FCC*, 707 F. 2d 1413 D.C. Cir. (1983). (“It is not the public interest standard that we proposed to eliminate.... [W]e sought to explore in this proceeding the question of whether or not in the context of radio the public interest can be met through the working of market place forces rather than by current Commission regulations.”) *In the Matter of the Revision of Programming and Commercialization Policies, Ascertainment Requirements, and Program Log Requirements for Commercial Television Station*, 56 R.R. 2d 1005, 1007 (1984), affirmed in part, *Action for Children’s Television v. FCC*, 821 F.2d 741 (Dc Cir. 1987). (“[W]e are by this Order retaining the obligation of licensees to provide programming that responds to issues of concern to the community.”). The result, USCCB stated in 2003, was broadcasters’ failure to meet the religious needs of their communities.

USCCB reported to the Commission in 2003 that USCCB and directors of communications of Catholic dioceses throughout the United States experienced broadcasters’ indifference and even hostility to religious programming and coverage of religious events in local communities. See pp 5 – 11 and attachments to USCCB Reply Comments, dated February 3, 2003 (attached). Three years later, Catholic dioceses continue to report that broadcasters persist in dismissing or ignoring religious programming and religious events. Many dioceses have informed the USCCB that they pay commercial rates to broadcasters to air their full-length programs and their PSA’s. Others have the following comments:

- Some [broadcasters] say we need to pay to have programs or PSA’s aired.
- Broadcasters say they don’t need to air PSA’s anymore.
- TV and radio stations would run PSA’s we produce free of charge, but I don’t believe they would be aired during the time period we desire; that’s why we pay for commercial time for the spots. However, the TV and radio stations then give us additional spots for free, equal to or slightly less than the original paid spots.
- We know they [PSA’s] actually air when we buy the spots.

- Broadcasters tell me if they did it for us [air PSA's], they'd have to do it for everyone.
- If we have bought a lot of time with them [television and radio broadcasters] on other projects, they occasionally will do a PSA.
- They [television and radio broadcasters] refuse to air free programming [but] will work with us on paid.
- Broadcasters tell me that they don't accept PSA's any more.
- They [broadcasters] air our Mass (paid) willingly.
- [Reason given by broadcasters for not airing programs or PSA's] Catholic message.
- Catholic Charities and local parishes have done an immense amount of relief work for Hurricane Katrina with very limited resources. Only one story about our schools has been publicized. We have ... been ignored.
- Our local Catholic Charities' effort after Hurricane Katrina was not covered.
- During the most recent Hurricane coverage, all efforts that were cited by local media centered on the Red Cross or Salvation Army and National Guard operations. All information provided by the Archdiocese was disregarded. This occurred in both print and broadcast.
- Higher concentration of media into fewer hands leads to monopoly of opinion and a shrinking of opportunities for local Catholic coverage. Case in point here: a formerly locally owned station was purchased by Fox and aligned with the Fox [nearby city] affiliate. All public affairs programs, which for years offered PSA's and public affairs programs with strong contribution by the Archdiocese were eliminated because the Fox people said they were fulfilling all necessary public affairs programming requirements (which, you know, virtually disappeared) through the [nearby city].
- Almost no positive news dealing with Catholic schools, parishes, ministries, hospitals, charities or leaders.
- I never think they [broadcasters] do all they can, but that's because they don't fully understand the impact/benefit of religions on the people/community in general.
- One radio station wouldn't give us free matching time for a PSA on Project Rachel [a Catholic program to counsel women who have had abortion] we were paying for, because it felt abortion was an election issue. All the other radio stations we contacted, however, had no problem giving us matching free PSA time for the time we bought for this particular spot.
- Commitment to the community no longer exists.
- Stories about or students and their activities are not covered; public schools are covered.
- Events in the rural parishes are seldom covered.
- As competition declines, the media's interest in being of service declines, too. It's pretty much "like it or lump it."
- It seems that the stations that are not locally owned and are part of large chains are less likely to air PSA's, public service programs and local news.
- Consolidation of news coverage into one for-profit entity will mean fewer reporters available.
- Too much information is just passed from one media outlet to another now.²

Broadcasters' reluctance to reflect in their programming the religious needs and interests of their communities is further illustrated by USCCB's experience in creating and distributing PSA's which educate the public about the pervasiveness of poverty in the United States. The Catholic Campaign for Human Development ("CCHD") is an office of the USCCB. It assists dioceses to raise donations, and distributes money to promote and support community-controlled self-help organizations which address the root causes of poverty in the United States, and to educate the public about poverty in

² As with USCCB's previous comments including the statements of directors of communications, names and identifying city information has been removed at the directors' request; they fear retaliation by broadcasters.

the United States. The Bishops decided that CCHD's education efforts should include PSA's on radio and television. CCHD staff was aware of the difficulty and expense of finding airtime for USCCB's other PSA's on general religious themes of love, forgiveness and the value of family. The CCHD staff, therefore, discussed PSA's with broadcasters at national networks, and at local broadcast outlets. They were told by broadcasters that PSA's containing religious themes or symbols would not be aired by them. The only religious symbol acceptable to them was the logo of the creator of the PSA, that is, the logo and name of CCHD (which runs in the last seconds of a PSA). Although CCHD's core mission and the reason for its existence (and that of the PSA's) is Catholic moral and social teachings and the principles of the Catechism of the Catholic Church, CCHD created PSA's which were scrubbed of any reference to Catholicism, Christianity and even God (other than the credit to CCHD). Thus, by silencing its messages of any religious content and the identity of the funders of its anti-poverty work, CCHD has had reasonable success in placing these seemingly secular PSA's.

Broadcasters' lack of responsiveness to meeting the religious needs and interests of their communities was a fact three years ago, when the Commission last sought to loosen ownership rules without public interest regulations in place. Three years later, it is still a fact, and public interest regulations still do not exist. However, the risk to the public from further concentration of ownership in the broadcast industry structure is greater today. The medium which operates to provide some of the information and entertainment broadcasters will not provide — the Internet — is at risk. New Commission-created rules allow the companies which control the infrastructure connecting the public to the Internet to effectively control speech on the Internet in the same way lack of enforceable public interest regulations and the dearth of local ownership of broadcast outlets have squeezed out programming which meets local needs and interests, particularly noncommercial religious programming.

The Commission should take no actions which will further concentrate ownership of radio and television stations and other media outlets into fewer hands. Rather, it should promulgate regulations to require broadcasters to serve the public interest. Absent specific regulations, broadcasters will continue to fail to serve the public interest using digital technology as they have while they used analog technology.

Respectfully submitted

Katherine G. Grincewich

Associate General Counsel

October 23, 2006

Attachment:
2003 Reply Comments of USCCB

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FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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The United States Conference of Catholic Bishops ("USCCB") submits the following reply comments in the above-referenced Notice of Proposed Rulemaking, released September 23, 2002.

The USCCB is a nonprofit corporation organized under the laws of the District of Columbia. All active Catholic Bishops in the United States are members of the USCCB. USCCB advocates and promotes the pastoral teachings of the Bishops in such diverse areas as education, health care, social welfare, immigration, civil rights, family life and communications. USCCB has extensive experience producing, funding and placing quality programming for television, radio and cable outlets. USCCB is committed to maintaining a place for religion and values on the public airwaves and to programming that inspires, informs and educates. Protection of the public's rights to disseminate and receive information from diverse sources on the scarce public resource of the airwaves is at issue in this rulemaking and is a matter of particular concern to the USCCB.

The USCCB supports the Comments of the Consumer Federation of America, Consumers Union, Center for Digital Democracy and Media Access Project (hereinafter "CFA"), and urges the Commission not only to retain current ownership limits, but to promulgate regulations to define digital television broadcasters' public interest obligations.

Under current ownership regulations, ownership of radio and television stations is concentrated in the hands of a few owners, as CFA's Comments amply demonstrate. Ownership of local broadcast stations by increasingly fewer companies over the past 25 years has ill served the needs and interests of the communities whose radio and television stations were licensed to serve, particularly their religious needs. USCCB agrees with the CFA that further loosening of the already generous ownership regulations would worsen this situation, particularly in light of the lack of enforceable regulations defining how broadcast licensees must meet their statutory public interest obligations. USCCB agrees with the CFA that "[g]reater concentration reduces public interest and culturally diverse programming. ... The result is a tyranny of the majority, in which minority, unpopular and noncommercial points of view are squeezed out." CFA Comments, page three. Viewed from another perspective it is also tyranny of a minority – those few corporations which own and control television and radio stations (and newspapers). Permitting ownership of more media outlets in the hands of fewer owners will worsen the already hostile climate for local news and public affairs programming. The FCC should decline to take any action which would increase concentration of ownership in broadcasting.

The FCC should take affirmative steps to correct broadcast practices which have skewed the appropriate balance of rights between broadcasters and the public. As

CFA's Comments illustrate (and as USCCB's reply comments also show), broadcasters have, since the 1980's, failed to fulfill their statutory responsibility to serve the public interest. Previous ownership rule changes are one reason for this. The absence of regulations which require broadcasters to document how they have determined their community's needs and interests and provided programs to fill those is another. Three years ago, the FCC took tentative steps towards examining the appropriate regulatory system at least with regard to television licensees operating on their digital channel. Although the FCC issued in 2000 two Notices of Proposed Rulemaking (In the Matter of Standardized and Enhanced Disclosure Requirements for Television Broadcast Licensee Public Interest Obligations), MM Docket No. 00-168, 65 Fed. Reg. 62683 (2000); In the Matter of Children's Television Obligation of Digital Television Broadcasters, MM Docket No. 00-167, 65 Fed. Reg. 66951 (2000), it never completed those rulemakings. The FCC should now focus on promulgating regulations which impose clear, enforceable requirements that digital broadcasters (1) ascertain the needs and interests of their communities of license, and (2) set a minimum amount of free public affairs and other free programming which meets those needs and interests. This minimum quantity of free programming must be aired on each channel on which the digital broadcaster provides services.

USCCB and Catholic dioceses which attempt to air USCCB-produced and their own programs on local television outlets face formidable barriers to placing those programs. Those barriers have resulted from the elimination of regulations which enforced the public interest responsibilities of broadcasters, as well as the increased concentration of these regulated industries. There are fewer opportunities for placement of programs, and those that air are scheduled at air times when few persons are watching. Our experiences in attempting to distribute programs with religious and social welfare themes on television should inform the decisions of the FCC as it creates the future regulatory environment for digital television.

The gift to television broadcasters of an additional channel for digital television use is a powerful reminder that the broadcast spectrum is a scarce public resource in which the public has a First Amendment interest. Whether television broadcasters use analog or digital technology, they must use a portion of the television spectrum to operate and obtain a license from the FCC for the use of that spectrum. The FCC's decisions regarding digital television, then, must be guided by the same bedrock principles. A television licensee operates on a public resource not open to all, and the First Amendment speech rights of the public in the use of that spectrum, not the broadcaster, are paramount. *Red Lion Broadcasting Co. v. FCC*, 395 U.S. 367, 390 (1969). The government may require the licensee to "conduct himself as a proxy or fiduciary with obligations to present those views and voices which are representative of his community and which would otherwise, by necessity, be barred from the airwaves." *Id.* at 389. The obligation of television broadcasters to act as a public trustee is essential to

protecting the public's First Amendment rights. "[I]t is axiomatic that broadcasting may be regulated in light of the rights of the viewing and listening audience Safeguarding the public's right to receive a diversity of views and information over the airwaves is therefore an integral component of the FCC's mission." *Metro Broadcasting, Inc. v. FCC*, 497 U.S. 547, 567 (1990). A broadcaster's obligation to serve the public interest by acting as a public trustee promotes the First Amendment rights of the public. " '[T]he "public interest" standard necessarily invites reference to First Amendment principles' *Columbia Broadcasting System, Inc. v. Democratic National Committee*, 412 U.S. 94, 122 (1973), and, in particular, to the First Amendment goal of achieving 'the widest possible dissemination of information from diverse and antagonistic sources,' *Associated Press v. United States*, 326 U.S. 1, 20 (1945)." *FCC v. National Citizens Committee for Broadcasting*, 436 U.S. 775, 795 (1978).

The FCC has consistently defined the public interest over the last sixty years as requiring each broadcast licensee to determine the needs and interest of its community of license, including religious needs, and develop programming to meet them. That simple principle, applied here, is the touchstone of effective regulation of digital television. The FCC has ample authority to apply the obligation to serve the public interest to each digital channel operated by digital broadcasters. In section 336 of the 1996 Telecommunication Act, Congress specifically retained broadcasters' "obligation to service the public, interest, and necessity." 47 U.S.C. §336. Just because there is a new technology available to television licensees does not divest the FCC of its authority to interpret how the public interest is to be served. "While this criterion [the public interest] is as concrete as the complicated factors for judgment in such a field of delegated authority permits, it serves as a supple instrument for the exercise of discretion by the expert body which Congress has charged to carry out its legislative policy Underlying the whole law [the Communications Act] is recognition of the rapidly fluctuating factors characteristic of the evolution of broadcasting and of the corresponding requirement that administrative process sufficient flexibility to adjust itself to these factors." *FCC v. Pottsville Broadcasting Co.*, 307 U.S. 134, 137-138 (1940). The FCC has continued to adjust the public interest obligation as television has evolved.

In its 1941 Supplemental Report on Chain Broadcasting, the FCC confirmed that it intended that broadcasters devote an adequate amount of time to meet the needs of the community in issues of local interest. *NBC v. United States*, 319 U.S. 190 (1943). The FCC clarified a broadcast licensee's public interest obligation by issuing programming guidelines, which listed religious programs as one of the "major elements usually necessary to meet the public interest, needs and desires of the community in which the station is located." *1960 Programming Statement*, 20 R.R. 1901, 1913 (1960). In 1971, the FCC further assisted licensees in meeting their fundamental obligation to serve local needs and interests by developing methodologies to determine those needs and interests, one of which was to interview community leaders. *Primer on Ascertainment of*

Community Problems, 21 R.R.2d 1507 (1971). Among these community leaders, the FCC specifically mentioned religious leaders, although the licensee was expected to determine which community groups and needs are significant and merit responsive programming. *Id.* at 1518. Even as the FCC changed the regulations intended to ensure that licensees meet their public interest obligation to their local community of license, it confirmed that a pivotal goal of the Communications Act is "...present information on public issues so that the public may be informed, and that this information should come from diverse sources." *In the Matter of Deregulation of Radio*, 49 R.R.2d 1, 11 (1981).

The FCC's deregulatory actions of the early 1980's were not intended to alter broadcasters' obligations to meet community needs with responsive programming, but only change the manner that obligation was enforced. *In the Matter of Deregulation of Radio*, 49 R.R.2d 1, 7 (1981), affirmed in part, *Office of Communication of United Church of Christ v. FCC*, 707 F. 2d 1413 D.C. Cir. (1983). ("It is not the public interest standard that we proposed to eliminate.... [W]e sought to explore in this proceeding the question of whether or not in the context of radio the public interest can be met through the working of market place forces rather than by current Commission regulations.") *In the Matter of the Revision of Programming and Commercialization Policies, Ascertainment Requirements, and Program Log Requirements for Commercial Television Station*, 56 R.R. 2d 1005, 1007 (1984), affirmed in part, *Action for Children's Television v. FCC*, 821 F.2d 741 (Dc Cir. 1987). ("[W]e are by this Order retaining the obligation of licensees to provide programming that responds to issues of concern to the community."). The result, however, has been that broadcasters have failed to meet their public interest obligations. The experience of the USCCB and Catholic dioceses provides confirmation of that failure. USCCB has collected observations about the news and public affairs programs of local broadcasters from directors of communication of Catholic dioceses throughout the United States. These directors act as the media spokesperson for their dioceses and distribute public affairs programs and PSA's. At their request, their names and the names of their religious employers, and the call signs and community of license of the television licensees have been withheld. Most of the communications directors feared that if they were identified, television licensees would retaliate by refusing to respond to requests that licensees meet community religious needs. Illustration of the indifference of licensees to community needs and interest occurred in the FCC's *en banc* hearing in 2000 about the public television licensees. Similarly, Sr. Mary Parks, Secretary for Communications for the Diocese of Altoona-Johnstown, who testified on October 16, 2000 to the Commission at its *en banc* hearing (testimony attached), expressed similar concerns that her testimony would result in retaliation. In fact, Sr. Mary was questioned about the content of her testimony by a local broadcaster on the Friday before the hearing was held (and before the witness list was publicly released). Such fears themselves reveal the need for regulations to require that digital television licensees serve the public interest.

The following are some of the experiences of communications directors of more than 25 different Catholic dioceses, in their own words, which indicate the need for regulations.

“In the diocese, there are five radio stations (three FM and two AM). Until five years ago, these were owned by three different entities and the cost of purchasing air time was very competitive. Then it was two owners. In this past year, all five are now owned by the same company – which also owns two other stations in the diocese. As a result, I have seen the rates increase remarkably – and evenly – on all stations... Inasmuch as I purchase air time throughout the year on many stations..., and do so on a limited budget, rate competition is an important factor.”

“CBS recently put for sale local studios in another town from which we have broadcast a live TV Mass every Sunday for 45 years. That station will become a clone of the [closest major city’s] station, with no more community service or local newscasts. The community is in mourning, and editorials in local papers have questioned the FCC’s lack of appropriate stewardship regarding the public’s airwaves... In return for media companies’ using those public airwaves to make money, we should insist on public service and public access.”

“Broadcasters do not now have full and fair coverage of local issues, especially in what they decide not to report... I have had several recent experiences addressing allegations (affirmatively found to be unsubstantiated) against military priests. The media questions and final stories were virtually identical in Boston, Florida, Wyoming, California, AP and Bloomberg.”

“We can see how the networks have fared when regulations have been weakened in the past. Even the short religious broadcasting programs, which had been relegated to the midnight hour or early Sunday morning, have gone the way of the dodo.”

“The big change for us occurred ... when the ABC station informed us they would no longer broadcast our Sunday Mass, after 27 years on the air. After much discussion, the general manager could/would not even sell us air time for the Mass. It was the same story at the other stations as well; no local times available. Everything was sold and not available locally. We now pay \$72,000 annually to broadcast a half hour Mass on PaxTV. [W]e were told by management we could not broadcast any subject that would be considered controversial; i.e., abortion. The role of the Catholic Church is a vibrant one here, especially with Catholic Charities, the elderly population and the immigration issues that occur on almost a daily basis. The Church now pays for TV time for 30 second announcements; in fact, we have just begun our second flight for the Lenten and Easter seasons. The first flight of advertising on broadcast stations aired during Advent and we paid nearly \$300,000 for 800 spots.”

"The four commercial TV stations in this market do not accept PSAs - period. All of them are happy to serve us when we approach them as a paying customer. A few years ago, I even had one studio hand mention how much he enjoyed the old Franciscan spots of years ago - and then lament that the Franciscans probably quit producing them because stations don't run PSA's since the FCC public service requirements have been rolled back. One station in our market produces and carries our TV Mass on Sunday since it went on the air in the 1950s. But after carrying it at 8 a.m. for about two decades, the station pushed it up to 6 a.m. several years ago with the explanation that it had sold all the slots before that time period. We had a great deal of complaints, but could not get the station to relent. So to get a better time, we bought the 6:30-7 a.m. slot when it opened up. Station executives and sales and service personnel with whom we are acquainted will often privately lament the passing of the FCC rules, but all of them concede that times have changed and the bottom line is the only measure of performance that matters to station owners and managers."

"[W]e, in desperation, dedicated about \$6,000 toward getting our PSA's (the three thirty-second spots provided by the USCCB) aired on the local TV stations. All the sales people I dealt with say these are different times. When I was in TV in the 70's and 80's, we did public service programming, not just PSA's! We literally gave worthwhile causes and issues programming time. I think it's a crime that things have deteriorated to this point."

"No free air time whatsoever in this market... Typical response is... "If we do it for one church we have to do it for all of them." If you want something aired you have to purchase air time. We bought air time last year for some really good Respect Life spots and one station refused to give us a "buy one, get one free arrangement" because they said the spot was "political." If I walked into any local TV station or radio station and asked for their public file, I would be blackballed in this market by every licensee. I would be committing public relations *hari kari* if I walked in and asked for a public file."

"There are no religious PSA's or programs on television and cable in my market that benefit the local community. I have yet to see a PSA in fringe, prime time, or daytime. If they have time they use it to promo their own shows. Any spots or programs are paid for by the majority of local dioceses. We had a once a year Mass at midnight on Christmas Eve donated by the station but that was canceled in 1999. Reason: too expensive for them to carry. Radio and TV stations are owned by huge conglomerates who have only one focus - money. We knew this would happen with deregulation of ownership. These huge conglomerates have no interest in the local communities in which they own stations. It's only the bottom line. They think that having a newscast a couple times a day covers their community responsibilities."

“Free PSA’s on commercial TV network affiliates are harder and harder to come by All three TV network affiliates admit that they choose only ‘warm and fuzzy’ safe PSA’s which speak to the largest portions of the audience; forget advocacy (pro-life) or denominational (evangelization) altogether. It is expensive to successfully buy air time. Once you start purchasing, you burn your bridges behind. Free PSA time will be even harder to secure [once you begin buying air time]. The diocese is in no financial position to seriously consider paid TV advertising.”

“After more than 30 years, the tri-faith “Point of View” program was dropped The station claimed that it would increase children’s programming ... in place of “Point of View.” [The program featured] interesting people sharing stories about the role religious faith has played in their lives.”

“The only regular program (non-paid), a weekly worship service that rotated among different churches, was taken off the air in 1995 so the time could be sold. Nothing non-paid has replaced it on any of the stations. I once attempted to buy time on a local channel to broadcast our bishop’s installation. I was told I could not even buy the time because it would disrupt the audience for the soap operas. Literally I could not get them to name a price. In short, there is no unpaid time available on the TV stations in my community other than the very occasional PSA time.”

“The Sunday Mass for Shut-ins is one of the longest running broadcasts of the Mass in television history, first airing in 1953. Local celebrants, choirs and congregation members participate in the production. Throughout the 1960’s, 1970’s and early 1980’s viewers enjoyed the professional production support of a local television station and a mid-Sunday morning timeslot. After the FCC’s community service requirements were relaxed in the mid-1980’s, the program experienced a gradual reduction in exceptional broadcast scheduling. Air time moved from 9 or 9:30 a.m to 6:30-7 a.m. Production support slowly was cut. Finally, both stations [which had supported the program] ended production and air time. The justification given by both stations for ending their long-term community service was the fact that the FCC no longer required that commitment. After ending its support, [one station] initially offered to sell the Archdiocese a 7 a.m. Sunday morning time slot for \$1,500 per half-hour [\$78,000 annually]. This meant the Archdiocese would have to pay \$78,000 annually simply to stay on the air, when, for decades, the air time had been made available for no cost as a community broadcast service. We have had the experience mirrored in other archdioceses.”

“[T]he [television] station moved our time [for a weekly televised religious service] from 11:30 a.m. to 6:00 a.m. Almost weekly, I still get calls or letters of complaint from shut-ins or their families. The station manager is apologetic, but says he needs that later

spot to meet federal law requirements for three hours of children's programming. He told me ... that we wouldn't even be able to buy that later time. "

"One of the largest of the FM stations refused to sell us air time [for 60 second advertisements supporting a program which assists women who have had an abortion]. They claimed that because the word abortion was used in the spot that it would be offensive. We produced a very well done television commercial for the program that was rejected by all the television stations [in the market] because they claimed that they would have to offer equal time to other groups."

"Local television stations have deleted the Mass that was broadcast weekly to shut-ins, the sick and the elderly under the pretext that it is too religious and that they would be required to give equal time to other denominations even though 50% of the audience is of one denomination. One station said that it was deleting the Mass to fulfill its obligation to programs for children. That [children's] programming was commercially sponsored, revenue generating, and far from educational. A public affairs program that had been aired for many years was pulled in order to accept paid programming."

"The most common cause for refusal [to air our programs] is 'too religious' in context or controversial in content. Whether paying or free, our PSA's are routinely scrutinized and dropped or we are asked to rephrase. Better still, [stations offer] the sly inference that it's a free PSA if it is watered down. It's advertising [that] you would have to pay for, if not [watered down]. This applies to anything that touches on [the program we produced] or alternatives to abortion."

"[A network] affiliate in [a major market] pulled a program called 'For Heaven's Sake' from the air, citing the Children's Television Act as the reason. The program had been on the air for more than 20 years and featured a Catholic priest, Jewish Rabbi and a Protestant minister discussing various topics. The program aired at 6:30 a.m. on Sunday morning and should not have affected the time allotted for the Children's Programming Act. ... In 1986 [another network] provided the Easter Mass live from the [Catholic] Cathedral for viewers at no charge. They did a Christmas service with the Baptists and other [religious] celebrations for the Jewish community. That ended in 1988 due to lack of budget to continue community service programming."

"I have repeatedly tried to get interfaith religious documentaries and public service announcements aired by three local network affiliates. In all cases, these have been rejected. The reasoning most often is the 'equal time' concern. There had also been a concern of content and I have had numerous conversations with no positive result about consideration of the documentaries that are prepared by interfaith teams. Recently, I have frankly stopped trying because of these futile attempts. On the other hand, we have never been rejected when we have agreed to buy air time for [our]

Christmas message or have tagged our [religious service] (which is purchased air time) with [our] public service announcements.”

“The usual comments from programming directors is that due to Pacific Time, sporting events are scheduled at the times the [religious] specials might be aired elsewhere. I also hear that the stations air their own news programs on Sunday mornings. We do have one [network affiliate] station that has a special [religious] segment on their weekend news programs. A priest ... gives a three minute commentary on a general topic. The station has told him that they are the only station in the U.S. that has air time for a priest in a non-religious program. In [a smaller] market, when an [interfaith] special is aired, it usually airs at 5:30 or 6:00 a.m.”

“We usually have very little luck in placing any of the programs produced by the Interfaith Broadcasting Commission for television or radio. Most of our stations say there just isn’t anytime available. However if I tell them we are willing to pay for a time slot, then all of a sudden they cannot air one of their paid programs for that week and we can run the show.”

“A decade ago our PSA’s were welcome at the television stations. Some even requested more of ‘those [religiously-based] spots.’ Today, none of the four network affiliates in our ... city accepts any PSAs. The reason: if you want time, you have to pay for it. The one exception: one station has given us a half-hour for [a religious service] and studio time to produce it since it went on the air in the early 1950s. From the beginning, the Mass aired at 8:00 a.m. But about a decade ago it was moved to 6:00 a.m. because the station’s new management found paid programming to fill all the discretionary time slots it had on Sunday mornings beginning at 6:30 a.m. When the 6:30 a.m. time slot became open, we bought it, moved the Mass to 6:30 a.m. and put our programming on at 6:00 a.m. Initially we were able to run PSA’s through the time between the Mass and the paid programming -- but now the station airs only paid ads at that time. The station manager’s explanation is that the purpose of the station is to make money, and giving us any time at all really doesn’t make any sense in that context. He has assured us that he won’t withdraw the free time because he fears a backlash, but he will move it earlier yet if he can sell the time slot we now get.”

“Almost all television stations in the metro area refuse to give us free public service time either in the way of spot announcements or programs. Only a few stations do. We have to pay for any programs such as weekly Mass; TV special programs; radio spots. Reasons given for not running free spots or free programs: if we do it for you we have to do it for everyone; we don’t have the time to give or sell to you – we’re sold out; we don’t sell to religious organizations; it’s not consistent with our programming.”

“Spanish TV station rejected locally-produced Spanish Mass in favor of airing ‘info-mercials.’ Local CBS TV affiliate does not air any of the superb Interfaith

Broadcasting Commission TV specials. A Spanish-speaking Catholic priest must buy time on local radio outlet to air his outreach program, which is public service oriented. All local affiliates have refused at some point to air religious programs and PSA's in so-called prime Sunday time unless they are paid."

"At present, only one network owned-and-operated television station devotes a weekly program of 30 minutes to religious affairs. Responsibility for production of [that] program rotates through Catholic, Protestant and Jewish faiths. A similar program, with a definite public affairs bent, was canceled on short notice by another network owned-and-operated station two years ago and was not replaced. The third major network owned-and-operated station canceled a one-hour ecumenical program three years ago and did not replace it. A major independent station canceled three programs ... one each for Catholic, Protestant and Jewish faiths."

"Faith Focus has also been sponsored by 17 area faith organizations ranging from the Jewish Federation of [City A] to the Baha'i Communities of [City B] and [City C]. It is the only non-profit seeking, non-denominational program on the air in our region. As one of the sponsors put it, 'Faith Focus has provided the only table that we all feel comfortable coming together at.' Without FCC regulations to level the playing field -- i.e. make everybody do at least some public interest broadcasting -- eventually the pressures of the market made the station, with all its good intentions and demonstrated commitment, give up on Faith Focus. The program's cancellation is a classic example of when the public interest has been sacrificed to the profit imperative. You can't really blame our local station -- without FCC regulations -- they have nobody to answer to except their investors."

"Over the years, Interfaith Broadcasting Commission member programs have been pushed to earlier and less accessible air times as the networks have increased their weekend news and sports programming. Overall clearances of the programs, particularly on one network, have dropped significantly."

These experiences illustrate why the FCC must take strong and definitive action to quantify and enforce a public interest standard, and take no action to weaken existing ownership rules.

Our diocesan and other institutions serving the public around the country all report unresponsive conduct on the part of television broadcasters. The FCC should take no actions which will further concentrate ownership of radio and television stations and other media outlets in the hands of a handful of corporations. Rather, it should promulgate regulations to require broadcasters to serve the public interest.

Absent specific regulations, broadcasters will continue to fail to serve the public interest using digital technology as they have while they used analog technology. The FCC has both the authority and the obligation to require a minimum amount of public interest programming on each digital channel used by digital broadcasters.

Respectfully submitted,

Mark E. Chopko
General Counsel

Katherine G. Grincewich
Assistant General Counsel

Attachment

Testimony of Sr. Mary Parks, October 16, 2000
In the Matter of En Banc Hearing
on the
Public Interest Obligations of TV Broadcast Licensees

SISTER PARKS: Good afternoon. My name is Mary Parks. I am a Sister of St. Joseph, committed to the Communications Ministry in Central Pennsylvania in the Diocese of Allentown and Johnstown for the Catholic church. Our diocese is about 115,000 Catholics in eight counties in west central Pennsylvania. I am grateful for the opportunity to speak with you today because I believe that under the current regulatory structure, free access to the public airwaves does not really exist anymore. And that concerns me a great deal.

I would like to begin my story today by telling you a little bit about my beginning in television. My first job after I graduated from college in 1973 was teaching Romper Room which was a children's television program in those days. And anybody over 30 might remember. Every morning for two years, I taught as a live on-air personality on WJAC TV in Johnstown, Pennsylvania. And many area youngsters had the opportunity to be part of that program on TV; we graduated a class every two weeks. The program was syndicated so that it could be localized all over the country. And during those years from 1974 to 1975, my station did a tremendous amount of public service programming and free public service announcements. After teaching English for a few

years, I returned to television in 1978 at the same station in Johnstown, 30 miles from where I grew up as a TV announcer, as a program host for public service programs, as a weather host.

Every week day, WJAC TV gave – and this is every week day – 15 minutes of public service programming time to worthwhile community interests right after our main news. People could see area religious leaders on “Religion Today.” Alma Kramer hosted “Seniors Today”, with a variety of interesting topics for older people in our community. We had a program for farmers, by farmers, called “Extension Six.” I learned a lot, believe me. During prime time once a week during the school year, we ran a half hour program called scholastic quiz which allowed area high schools to send their best and their brightest to compete academically, answering questions on every subject from history to science to math. But the most coverage television provides for education is the expanded sports reporting we get on high school football during the 11:00 pm Friday news shows.

Under the stipulations of our union contract in those days, a large portion of our station identifications and commercials were read live. And because of that, I was more aware than I would ordinarily have been about the number of public service announcements we did because I was reading quite a few of them during every shift. When sales were slow at the television station and paid commercials were few, we did tons of PSAs. Today, news stations fill those available time slots with commercial material. They hype their local news incessantly. Some of the promotions are general in nature, which others are specific to news programs of the day. We used to do commercial updates in our news during the 1980s (I read ten years of news, too), but those updates were news reporting. We were telling people all the news, not just teasing what we were going to tell them later. Now stations never give the whole story during those updates; they just entice viewers. Clearly, the industry deems this promotional barrage an imperative as stations are battling for the laurel ivy in these rating wars.

During the 1980s when I worked exclusively in the news department at WJAC, I could see the changes happening. In my opinion, we were doing more promotional and less reporting as the decade went on. My decade in news ended when I entered my religious community in 1990. But during the ten years that I was reporting news, I watched free programming disappear at our station . And now I am in the position to understand more fully what that means.

I became the secretary for Communications to the diocese of Altoona-Johnstown in 1998. And I am back in my old stomping grounds where people remember me from my days on television. I have many friends that still work on local television stations. And I enjoy my relations with the. And in spite of having a strong home field advantage, I am unable to get any of our public service announcements on the air free. I have been

told that other than slots in the middle of the night, free time no longer exists. Maybe some groups are still getting PSAs. But I cannot say that I have personally seen any of them on the four network affiliates in our market. We ended up having to buy time for the first time in history at the diocese to get our jubilee and conciliation spots on the air. We spent \$6,000.00 after my Communications Advisory Committee recommended that it was better to do that than not have them there at all.

Things aren't any better on the radio front. For the first time this past year [2000], we had to buy time on the radio, too. We spend \$2,000 doing that. I really am reluctant about that because I believe this is air time which should be given to the community. It no longer exists.

I don't have time to tell you the whole story. Suffice it to say that I am very grateful for the opportunity to speak with you about this today.